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Measure of Retail Sales Tax on a Time and Materials Contract When the Contractor Includes the Retail Sales Tax Paid on Rented Equipment

When a contractor constructing a building bills its customer on a time and materials basis, the billing frequently includes retail sales tax paid on the rental of equipment used in the constructing.

WAC 458-20-170 requires prime contractors to collect from consumers the retail sales tax measured by the full contract price. RCW 82.04.050 includes within the definition of "retail sale" the renting or leasing of tangible personal property to consumers. The contractor is a consumer with respect to the equipment leased by it and is, therefore, liable for retail sales tax on the amount of the rentals paid. Thus, the retail sales tax paid by the contractor is an expense which he recovered in his billing. The taxpayer, the contractor's customer, is required to pay retail sales tax on the gross contract price, irrespective of how the price was computed. The rental of equipment is treated in the same manner as other items used by the contractor as a consumer such as saw blades, hammers, wheelbarrows, vehicles, and power tools. The contractor owes retail sales tax on the purchase of the equipment and that cost will be factored into the contract price for constructing.

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